

FRIEDMAN, JAMES & BUCHSBAUM LLP

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
COSMO MEZZINA,

Plaintiff,

-against-

PORT IMPERIAL FERRY CORP.
d/b/a NY WATERWAY,

Defendant.

PLAINTIFF DEMANDS
A TRIAL BY JURY

COMPLAINT

**SEAMAN'S CASE UNDER
THE JONES ACT FOR
PERSONAL INJURIES**

Civil Action No.:

-----X

**SUITS UNDER SPECIAL RULE FOR SEAMEN TO
SUE WITHOUT SECURITY OR PREPAYMENT OF
FEES FOR THE ENFORCEMENT OF THE LAWS
OF THE UNITED STATES, COMMON AND STAT-
UTORY FOR THE PROTECTION OF AND FOR
THE HEALTH AND SAFETY OF SEAMEN AT SEA**

Plaintiff COSMO MEZZINA, complaining of defendant, by his attorneys
FRIEDMAN, JAMES & BUCHSBAUM LLP, respectfully alleges as follows:

Jurisdiction and Venue:

1. This Court has jurisdiction pursuant to the Jones Act, 46 U.S.C. §§ 30104 et seq. (formerly codified at 46 U.S.C.A. § 688).

2. Venue is proper in this District pursuant to the Jones Act, 46 U.S.C. § 30104, as incorporating 45 U.S.C. § 56, in that defendant is doing business within this District; and/or 28

U.S.C. § 1391 in that a substantial part of the events or omissions giving rise to the claim occurred within this District.

Parties:

3. At all relevant times, plaintiff COSMO MEZZINA was citizen and resident of the State of New Jersey.

4. At all relevant times, plaintiff COSMO MEZZINA was a seaman and member of the crew of the vessel "GARDEN STATE."

5. At all relevant times, defendant PORT IMPERIAL FERRY CORP. d/b/a NEW YORK WATERWAY was and still is a corporation duly organized and existing under and by virtue of the laws of the State of New Jersey, authorized to transact business in the State of New York, with its principal place of business located at 4800 Avenue at Port Imperial, Weehawken, New Jersey 07086.

6. At all relevant times, defendant PORT IMPERIAL FERRY CORP. d/b/a NEW YORK WATERWAY did transact business within the State of New York or supplied goods or services in the State of New York.

7. At all relevant times, defendant PORT IMPERIAL FERRY CORP. d/b/a NEW YORK WATERWAY regularly solicited business or engaged in a persistent course of conduct and derived substantial revenue from business activities occurring within the State of New York.

8. At all relevant times, defendant PORT IMPERIAL FERRY CORP. d/b/a NEW YORK WATERWAY maintained a passenger vessel ferry service regularly calling at ferry docks located within the City of New York.

FIRST COUNT
(Jones Act/Unseaworthiness)

9. Plaintiff repeats and reiterates each and every allegation contained in paragraphs 1 thru 8 of this Complaint as if set forth at length herein.

10. At all times and dates hereinafter mentioned, defendant PORT IMPERIAL FERRY CORP. d/b/a NY WATERWAY owned the vessel "GARDEN STATE."

11. At all relevant times, the vessel "GARDEN STATE" was and still is a United States registered passenger vessel subject to regulations of and inspected by the United States Coast Guard.

12. At all times hereinafter mentioned, defendant PORT IMPERIAL FERRY CORP. d/b/a NY WATERWAY operated the vessel "GARDEN STATE."

13. At all times and dates hereinafter mentioned, defendant PORT IMPERIAL FERRY CORP. d/b/a NY WATERWAY controlled the vessel "GARDEN STATE."

14. At all times and dates hereinafter mentioned, the plaintiff was a seaman and member of the crew of the vessel "GARDEN STATE" and an employee of defendant PORT IMPERIAL FERRY CORP. d/b/a NY WATERWAY.

15. On or about October 1, 2021, without any fault on the part of the plaintiff, and wholly and solely by reason of the negligence, recklessness and carelessness of the defendant PORT IMPERIAL FERRY CORP. d/b/a NY WATERWAY its/their agents, servants and/or employees, and by reason of the unseaworthiness of its/their vessel "GARDEN STATE," the plaintiff was caused to sustain injuries as a result of falling into and through an unguarded hatch opening onboard said vessel.

16. That said incident as aforesaid is a violation of 46 CFR § 42.15-75(d) and constitutes negligence *per se* pursuant to the rationale of Kernan v. American Dredging Co., 355 U.S. 426 (1958) and its progeny.

17. As a result of the foregoing, the plaintiff was rendered sick, sore, lame and disabled and sustained severe permanent personal injuries, including but not limited to a comminuted fracture of the left calcaneus with intra-articular extension, requiring an open reduction and internal fixation surgical procedure, was and is internally and externally disabled causing him to suffer pain, and was and will be prevented from attending to his daily labors, thereby losing sums of money which he otherwise would have earned as wages and benefits, and has endeavored to be cured of his injuries, and has expended sums of money to maintain himself, and will continue to endure pain and suffering, all to his damage.

18. By reason of the foregoing, plaintiff has been damaged in the sum of FIVE MILLION (\$5,000,000.00) DOLLARS.

SECOND COUNT
(maintenance and cure)

19. Plaintiff repeats and realleges each and every allegation of the First Count in this Complaint as if fully set forth at length herein.

20. Plaintiff is entitled to maintenance, cure, and medical expenses for the period that he was disabled and unable to work in the total sum of FIVE HUNDRED THOUSAND (\$500,000.00) DOLLARS.

WHEREFORE, plaintiff COSMO MEZZINA demands judgment against defendant PORT IMPERIAL FERRY CORP. d/b/a NY WATERWAY in the First Count in the sum of FIVE

MILLION (\$5,000,000.00) DOLLARS; against defendant PORT IMPERIAL FERRY CORP. d/b/a NY WATERWAY in the Second Count in the sum of FIVE HUNDRED THOUSAND (\$500,000.00) DOLLARS; together with interest and costs.

Dated: New York, New York
March 9, 2022

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By:



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